

LEGISLATIVE BILL 143

Approved by the Governor February 10, 1999

Introduced by Revenue Committee: Wickersham, 49, Chairperson; Coordsen, 32; Landis, 46; C. Peterson, 35; Raikes, 25; Schellpeper, 18

AN ACT relating to motor fuel tax; to amend sections 66-503, 66-676, 66-682, and 66-738, Reissue Revised Statutes of Nebraska; to change permit provisions, tax provisions, and funding; to eliminate a task force; to provide operative dates; to repeal the original sections; to outright repeal section 66-740, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 66-503, Reissue Revised Statutes of Nebraska, is amended to read:

66-503. (1) Every person in charge of any vehicle in which motor vehicle fuel or diesel fuel is carried into, within, or out of the State of Nebraska shall have and keep a copy of the liquid fuel carriers license with him or her during the entire transportation and also a copy of the bill of sale, bill of lading, manifest, purchase order, sales invoice or delivery ticket, or similar documentation covering all such motor vehicle fuel or diesel fuel which is individually numbered and dated and shows the kind and amount of the motor vehicle fuel or diesel fuel, where obtained and of whom, the destination state or delivery location, and the name and address of the owner and of the consignee or purchaser, if applicable. Such person shall exhibit every such paper or document, immediately upon demand, to the department, any employee thereof, or any peace officer of this state.

(2)(a) Any person importing motor vehicle fuel or diesel fuel into the State of Nebraska for the purpose of delivery in this state who does not have in his or her possession an original unaltered bill of sale, bill of lading, or manifest identifying Nebraska as the destination state shall obtain a motor fuel delivery permit number ~~from the Nebraska State Patrol~~ prior to delivering such fuel. A separate motor fuel delivery permit number shall be required each time such person enters Nebraska for the purpose of delivering motor vehicle fuel or diesel fuel in Nebraska. Prior to ~~issuing~~ issuance of a motor fuel delivery permit number, the ~~Nebraska State Patrol shall require such person to~~ shall provide his or her Nebraska liquid fuel carriers license number, the type and amount of fuel being imported, where obtained, the destination, the original bill of sale, bill of lading, or manifest number, if applicable, and such other information as the Department of Revenue deems necessary. ~~On or before the twentieth day of each calendar month, the Nebraska State Patrol shall provide the department with a listing of all motor fuel delivery permit numbers issued during the preceding calendar month accompanied by the information required by this section.~~

(b) Any person obtaining motor vehicle fuel or diesel fuel from a bulk fuel storage facility located in this state, other than a pipeline terminal, barge line terminal, or refinery, who exits this state and returns with all or any portion of such fuel remaining shall not be deemed to be importing such remaining fuel and shall not be required to obtain a motor fuel delivery permit number if such person maintains the documents and papers required by subsection (1) of this section establishing that such remaining fuel was obtained from a bulk fuel storage facility located in this state.

(3) Any person transporting motor vehicle fuel or diesel fuel shall be deemed to have given his or her consent to submit to an inspection of licenses and permits required for the transportation of fuel and the documents and papers required by this section for the purpose of determining compliance with the motor fuel laws. The issuance of a motor fuel delivery permit number under this section shall be deemed to be the issuance of a permit for purposes of enforcing the motor fuel laws.

(4) Any law enforcement officer who has been duly authorized to make arrests for violations of traffic laws of this state or ordinances of any city or village or any carrier enforcement officer who has reasonable grounds to believe that a vehicle is transporting motor vehicle fuel or diesel fuel may require the operator of such vehicle to display any or all licenses and permits required for the transportation of fuel and the documents and papers required by this section. Such law enforcement officer or carrier enforcement officer may make a record of any of the information contained on the licenses or permits or any of the information from the bill of sale, bill of lading, manifest, or other documents and papers required by sections 66-501 to 66-512

and 66-525 to 66-531.

(5) The Legislature declares that it does not intend to place any burden upon the transportation of motor vehicle fuel or diesel fuel in interstate commerce under such circumstances as federal law and the Constitution of the United States preclude.

Sec. 2. Section 66-676, Reissue Revised Statutes of Nebraska, is amended to read:

66-676. (1) The tax imposed by section 66-668 shall be computed by each supplier, distributor, wholesaler, or importer by multiplying the tax rate per gallon established in section 66-668 by the number of gross gallons of undyed diesel fuel ~~sold for which an exemption certificate has not been obtained received, imported, produced, refined, manufactured, blended, or compounded~~ by such supplier, distributor, wholesaler, or importer within the State of Nebraska which are not otherwise exempt under section 66-668.

(2) The monthly tax return shall be accompanied by remittance covering the tax due pursuant to sections 66-668 to 66-670 on diesel fuel ~~sold received, imported, produced, refined, manufactured, blended, or compounded~~ during the preceding month.

Sec. 3. Section 66-682, Reissue Revised Statutes of Nebraska, is amended to read:

66-682. (1) There is hereby imposed a floor-stocks tax on diesel fuel owned by any person on ~~July 1, 1994~~ January 1, 2000, if:

(a) No tax was imposed on such fuel under the ~~Special Diesel Fuel Tax Act as it existed on June 30, 1994~~ December 31, 1999; and

(b) Tax would have been imposed on such fuel by the Diesel Fuel Tax Act ~~had it been in effect as it existed~~ for periods prior to ~~July 1, 1994~~ January 1, 2000.

(2) The rate of the tax imposed by this section shall be the amount of tax imposed under the ~~Special Diesel Fuel Tax Act on June 30, 1994~~ December 31, 1999.

(3) Any person owning diesel fuel on ~~July 1, 1994~~ January 1, 2000, to which the tax imposed by this section applies shall be liable for such tax. The tax imposed by this section shall be paid on or before ~~December 31, 1994~~ July 1, 2000, and shall be paid in such manner as the department prescribes.

Sec. 4. Section 66-738, Reissue Revised Statutes of Nebraska, is amended to read:

66-738. The Motor Fuel Tax Enforcement and Collection Division is hereby created within the Department of Revenue. The division shall be funded by a separate appropriation program within the department. All provisions of Chapter 66, articles 4, 5, 6, and 12, and sections 66-712 to 66-737 and the provisions of Chapter 3, article 1, and Chapter 66, article 15, pertaining to the Department of Revenue, the Tax Commissioner, or the division shall be entirely and separately undertaken and enforced by the division, except that the division may utilize services provided by other programs of the Department of Revenue in functional areas known on July 1, 1991, as the budget subprograms designated revenue operations and administration. Appropriations for the division that are used to fund costs allocated for such functional operations shall be expended by the division in an appropriate pro rata share and shall be subject to biennial audit by the Auditor of Public Accounts, which audit shall be provided to the budget division of the Department of Administrative Services and the Legislative Fiscal Analyst by October 1 of each even-numbered year. Audit information useful to other divisions of the Department of Revenue may be shared by the Motor Fuel Tax Enforcement and Collection Division with the other divisions of the department and the Division of Motor Carrier Services of the Department of Motor Vehicles, but audits shall not be considered as a functional operation for purposes of this section. Except for staff performing in functional areas, staff funded from the separate appropriation program shall only be utilized to carry out the provisions of such articles and sections. The auditors and field investigators in the Motor Fuel Tax Enforcement and Collection Division shall be adequately trained for the purposes of motor fuel tax enforcement and collection. The Tax Commissioner shall hire for or assign to the division sufficient staff to carry out the responsibility of the division for the enforcement of the motor fuel laws.

Funds appropriated to the division may also be used to contract with ~~the Nebraska State Patrol~~ other public agencies or private entities to aid in the issuance of motor fuel delivery permit numbers as provided in subsection (2) of section 66-503, and such contracted funds shall only be used for such purpose. The amount of any contracts entered into pursuant to this section shall be appropriated and accounted for in a separate budget subprogram of the division.

Sec. 5. Sections 2, 3, and 6 of this act become operative on

January 1, 2000. The other sections of this act become operative on July 1, 1999.

Sec. 6. Original sections 66-676 and 66-682, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 7. Original sections 66-503 and 66-738, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 8. The following section is outright repealed: Section 66-740, Reissue Revised Statutes of Nebraska.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.